

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN A. JONES, JR.,

Plaintiff,

-against-

WESTCHESTER COUNTY DEPARTMENT
OF CORRECTIONS; JOSEPH K. SPANO,
COMMISSIONER OF CORRECTIONS;
GEORGE LATIMER, COUNTY EXECUTIVE
OF DEPARTMENT OF CORRECTIONS;
HERBERT STODDARD, PHYSICIAN –
WELL PATH REP.,

Defendants.

21-CV-1016 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff, currently incarcerated in the Westchester County Department of Corrections, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights. For the following reasons, the Court dismisses this complaint without prejudice.

Plaintiff has previously submitted to this Court an identical complaint against the same Defendants that raises the same claims. That action is pending in this Court under docket number 20-CV-8542 (PMH). Because this complaint raises the same claims, no useful purpose would be served by the filing and litigation of this duplicate complaint. Therefore, this action is dismissed without prejudice to Plaintiff's pending action under docket number 20-CV-8542 (PMH).

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Clerk of Court shall not charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust fund account for this action.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. The Court dismisses this complaint without prejudice.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: February 17, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge